

In the circumstances when the first respondent was adjudged a bankrupt on 12th June 1967 he was not a statutory tenant of the said premises. The tenancy of the said premises therefore could not have been vested in the second respondent automatically upon the first respondent being adjudged a bankrupt on 12th June 1967.

This application is therefore dismissed with costs.

Application dismissed.

Solicitors: *Yeoh Kian Teik & Co.; J. R. Devadas.*

NAGAPPA CHETTIAR & ORS. v. COLLECTOR OF LAND REVENUE

[O.C.J. (Wan Suleiman J., Dato Wan Ibrahim bin
Wan Soloh and Dato Syed Idrus Al-Idrus, Assessors)
September 30, 1970]

[Alor Star — Land Reference No. 1 of 1968]

Land Acquisition — Compensation — Considerations to be taken into account in assessing amount of compensation — Market value — Evidence of sales of same land or similar land in neighbourhood — Bendang land — Potential value as building land — Severance loss. — Land Acquisition Act, 1960, ss. 12 & 51(1)(d).

Land Acquisition — Compensation — Applicant asking for, exceeding 20% amount awarded — Costs.

The applicants were the co-owners of *bendang* land in Kota Star. The land had been acquired for the purpose of constructing a by-pass road and the Collector of Land Revenue had awarded \$3,000 per *relong* as compensation. The applicants had claimed \$16,500 per *relong* as compensation. The applicants' grounds of objection to the award were that the collector had failed to take into consideration the potential value of the land as building land and that the award did not represent the true market value of the land.

Held: (1) in the circumstances the fair market price of the land would be \$7,000 per *relong*;

(2) as the applicants had asked for compensation at \$16,500 per *relong*, thereby exceeding by more than 20% the amount of the award, they will not be entitled to their costs.

Case referred to:-

- (1) *Nanyang Manufacturing Co. v. Collector of Land Revenue Johore* [1954] M.L.J. 69.

LAND REFERENCE.

A. Jayadeva for the applicants.

Tunku Mukhtar bin Tunku Yuacob (Legal Adviser, Kedah/Perlis) for the respondent.

Cur. Adv. Vult.

Wan Suleiman J.: The applicants are the co-owners of *bendang* land comprised in S.P. No. 11475 Lot 911 (hereinafter referred to as "Lot 911") in the Mukim of Pengkalan Kundor, Kota Star, Kedah. Part of this lot, in area 6 acres 3 roods 6.1 poles was acquired by Government by *Gazette Notification* No. 181 dated 30th June, 1966 (Kedah Government *Gazette*) for the purpose of constructing a Western By-Pass Road to Perlis.

A The Collector of Land Revenue held an enquiry on 3rd December, 1966, as required by law, to determine the amount of compensation to be paid to applicants for the land so acquired. In his grounds of award the collector rejected applicants' claim for compensation at the rate of \$16,500 per *relong*, and instead awarded \$3,000 per *relong*.

B Paragraph 3 of the grounds of award set out in full hereunder adequately sums up the factors taken into account by the collector in arriving at this figure:—

C "It is a well-known fact that first class "*bendang*" land is selling at an average price of \$1,200.00 per *relong* in the *padi* area of North Kedah, except in cases where the land lies in the town area or having road frontage where the price is considerably more. In the case of Lot 911, the land lies just outside the Town Council limits of Alor Star and quite close to the Government Low Cost Housing Scheme. Therefore, consideration is given to its potentiality for development even though the present owners may not intend to develop it. Another factor in the land-owners' favour is that being non-Malay owners of Malay Reservation land, they are at liberty to sell their land to anybody they like. Hence the price would be more favourable."

D The applicants' grounds of objection to the award briefly are that the collector had failed to take into consideration the potential value of the land as building land, and that the award did not represent the true market value of the land.

E In assessing the amount of compensation to be awarded, section 12 of the Land Acquisition Act 1960 prescribes that the considerations to be taken into account are those set out in the First Schedule. This court would therefore have to apply the following considerations in determining what the *market value* of the acquired portion of Lot 911 really is:—

- F (1) The market value should be that at the date of the publication of the *Gazette* i.e. 30th June, 1966.
(2) The effect of any express or implied condition of title restricting the use to which the scheduled land may be put.

G (3) In determining the amount of compensation to be awarded there shall be taken into consideration the following matters and no others—

- (a) the market value as determined in accordance with paragraph 1 of this Schedule;
(b) any increase in the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put;
(c) the damage, if any, sustained or likely to be sustained by the person interested at the time of the collector's taking possession of the land by reason of severing such land from his other land;
(d) the damage, if any, sustained or likely to be sustained by the person interested at the time of the collector's taking possession of the land by reason of the acquisition injuriously affecting his other property, whether movable or immovable, in any other manner or his actual earnings; and

(e)

(4) In determining the amount of compensation to be awarded the following matters shall *not* be taken into consideration:

- (a) the degree of urgency which has led to the acquisition;
- (b) any disinclination of the person interested to part with the land acquired.

(5) The applicants shall *not* be awarded any amount in excess of the amount claimed.

"Market value" has been defined as the price that an owner willing and not obliged to sell might reasonably expect to obtain from a willing purchaser with whom he was bargaining for the sale and purchase of the land.

As was rightly said in *Nanyang Manufacturing Co. v. Collector of Land Revenue, Johore*⁽¹⁾ the safest guide to determine the fair market value is the evidence of sales of the same land or similar land in the neighbourhood.

Let us consider what the experts called by both sides have to say as regards the fair market price of the acquired land, with special reference to their mode of comparison of the land with the known transactions in similar land in the neighbourhood.

The available evidence of land transactions in the neighbourhood are as follows:—

(a) *Lots 1767, 1768, 1769, 1770, 1771, 1772 and 1773 Mukim of Kota Star:*

These are 7 contiguous pieces of lands with a total area of 40 *relongs* 247 *jembas* lying immediately to the north of Lot 911. They lie outside the Town Council Area, in a Malay Reservation. The lands are all under padi cultivation.

These Lots were purchased jointly by S.NK. Nagappa Chettiar (co-owner of Lot 911) and Mohd. Saudagar Din bin Chatra on 29th June, 1965 for \$188,373 *i.e.* approximately \$4,650 per *relong*.

A 20/76 share of the above Lots and also of Lots 1774, 1775 and 2073 with a total area of 60 *relongs* 343 *jembas* held by Mohamed Saudagar Din was sold to the remaining co-owner, S.NK. Nagappa Chettiar on 10th January, 1968 for \$81,263.15 *i.e.* approximately \$5,100 per *relong*.

(b) *Lot 1628 Mukim of Pengkalan Kundor:*

This Lot is approximately 4 *relongs* 072 *jembas* in area and has a direct frontage to Jalan Pegawai. It is within the Town Council Area, in a Malay Reservation. The land was formerly under padi cultivation but has since been developed into a housing estate known as "Taman Malid".

The Lot was sold on 15th October, 1966 for \$35,000 *i.e.* approximately \$8,400 per *relong*.

(c) *Lot 1800 Mukim of Kota Star:*

This Lot is approximately 14 *relongs* 409 *jembas* in area and lies close to Jalan Pegawai, immediately to the rear of the Government Quarters. It is within the Town Council Area, in a Malay Reservation. The land is under padi cultivation but an application to

develop the land for residential purposes had been made in April, 1967.

The Lot was sold on 22nd April, 1967 for \$154,000 *i.e.* approximately \$10,400 per *relong*.

(d) *Lot 889 Mukim of Pengkalan Kundor:*

It has an area of approximately 2 *relongs* 299 *jembas* 7 *kaki persegi* of which 464 *jembas* 10 *kaki persegi* was acquired for the Western By-Pass, Alor Star. It lies within the Town Council Area, in a Malay Reservation, approximately 640 feet to the north of Jalan Kuala Kedah. The land is under padi cultivation.

The Lot was sold on 3rd April, 1968 for \$4,260 *i.e.* approximately \$2,570 per *relong*.

(e) *Lot 887 Mukim of Pengkalan Kundor:*

It has an area of approximately 2 *relongs* 278 *jembas* 2 *kaki persegi* of which 223 *jembas* 8 *kaki persegi* was acquired for the Western By-Pass, Alor Star. It lies within the Town Council Area, in a Malay Reservation, approximately 1100 feet to the north of Jalan Kuala Kedah, immediately adjoining Lot 911 on the north. The land is under padi cultivation.

The Lot was sold on 9th July, 1968 for \$5,000 *i.e.* approximately \$2,360 per *relong*.

With regard to Lot 1628 (Taman Malid) the Treasury Valuer Mr. Gopalakrishnan thought that the value was higher because it is on the main road. As for Lot 1800 the same witness remarked that the fact that it faces Jalan Pegawai accounts for this relatively higher value, again another example of trend of values when any land has road frontage.

Lot 889 according to him fetched only *bendang* value because of its size and the by-pass road running through it, and Lot 887 is affected by the same set of circumstances.

This expert's opinion of "value" appearing in his report (Exhibit D 20) is set out here in full, minus the introductory first paragraph:—

"Lands in the immediate vicinity are also under padi cultivation save for those which have direct road frontages, *i.e.* on Lot 1628, on Lots 2528-2542 inclusive, on Part of Lot 991 and on Lot 1388. These Lots were formerly under padi cultivation but have since been developed for residential purposes. This may be said to be typical of lands in the town area where more and more *bendang* lands have been opened up for development, either for commercial or residential purposes. The fact that the acquired land is under padi cultivation is not therefore considered a great disadvantage if any development is proposed. Nevertheless, before development could be envisaged it must be borne in mind not only the condition of title but also the uncertainty and the probability of delay in any application for conversion and/or sub-division of the land. These factors must be considered in assessing the fair market value of the land. Furthermore, development of the land must also be considered in the light of the availability of other suitable lands in the town area and of developments now being undertaken in the northern section of the town in areas such as Bakar Bata, Jalan Telok Wan Jah and Jalan Day which are generally considered as First Class residential areas of Alor Star.

The available evidence of value in the area show prices ranging from \$2,360 to \$10,400 per *relong* during 1964-1968.

It can be considered however that the price paid for Malay Reservation land gives little guide as to the value of Non-Reservation land nearby because Malay Reservation land may be bought only by a restricted section of the public, resulting in comparatively lower prices being realised as in respect of the sales of Lots 889 and 887 at \$2,570 and \$2,360 per *relong*, respectively. It follows therefore that the sale of Lot 1628 at \$8,400 per *relong* may well reflect, in my opinion, the proper market value of the said land as at that date.

From the available evidence of value, I am of the opinion that the sale of Lots 1767-1773, inclusive, at \$4,650 per *relong* on 29th June, 1965 i.e. about one year prior to the material date of valuation forms the best evidence of value for the acquired land. They compare favourably with the acquired land in all respects. It must be borne in mind, however, that the sale is in respect of a comparatively large area of land, approximately 40 *relongs*. From my experience, it has been observed that a prospective purchaser in the open market buying a piece of land of this size would invariably expect a reduction in value as an inducement to take over the bulk of the property as a whole.

After ascertaining all the factors appertaining to the said land acquired, I am of the opinion that the fair and reasonable market value of the said land can fairly be stated at \$6,000 per *relong*."

The valuer called by the applicants, Mr. Kong Chua Soon, also considered certain other land transactions, as set out below (at p. 62).

Mr. Kong valued the acquired portion at \$109,053.50 (approximately \$11,420 per *relong*) after having taken into account severance loss of about 5 *relongs* of land (see Appendix "V" in his report Exhibit P6). He was not in possession of data to enable him to make an estimate of any enhancement in value which the construction of the By-Pass Road would bring about.

Special mention should be made of Lot 991 (Taman Bahagia). The Treasury Valuation Division valued this piece at \$220,000 but after correspondence between a licensed appraiser (Haji Laidin bin Haji Abdul Manan — AW2) and the Government Valuer the valuation was reduced to \$175,000 i.e. about \$8,100 per *relong*. Lot 991 was under *bendang* kampong express condition and was then in a Malay Reservation owned by a Malay, with the consequent impediments to transfer. All the building lots in it was subsequently divided and some sold to non-Malays. On the basis of comparison with Lot 991 the licensed appraiser AW2 had valued the land acquired at no less than \$10,000 per *relong*.

Mr. Gopalakrishnan gave the reason why there had been a reduction in valuation of Lot 991 by the Treasury. He said that at the time of the death of the owner, it was discovered that no application for sub-division had yet been made so that the Treasury Valuation Division based its valuation on the value of the land as *bendang* with building potential. However, he agreed that everything else being equal unrestricted land would fetch a higher price.

Mr. Gopalakrishnan also took into account betterment value i.e. increase in value of the remainder of applicants' land brought about by the use to which the acquired land would be put, and also made allowances for compensation for severance loss. He said that

A construction of the Bye-Pass Road would give impetus to its development in much the same way as the development of Lot 381, Mukim Kota Star on the north east brought about by the construction of the new Alor Star — Kangar Highway. On the latter Lot now stands a new shopping area with dwelling houses in the rear.

B Land to the west of the proposed road, he said in his report, would be affected to the extent of about 8.54 *relongs* by its severance from the main body of the property, and he had computed the compensation for severance to amount to \$17,000.

C As regards the 77 *relongs* to the east of the proposed by-pass it is his opinion that the new road would bring about an increase in the value of that portion of the land so that the estimated increase in the value of the land due to the proposed construction of the road was in his estimation \$46,000. Accordingly to the market value of the 9.5459 *relongs* at \$6,000 per *relong* i.e. \$57,275 he added compensation for severance of \$17,000 and deducted from the total \$46,000 leaving a balance of \$28,275 or approximately \$2,960 per *relong*.

D For the applicants Mr. Jayadeva objected to this mode of deducting the value of any increase to the remaining land which paragraph 2(b) of the First Schedule to the Act seems to permit. He cited a number of authorities.

E Mr. Jayadeva also referred to page 322 of the third edition of *Aggarawala's Compulsory Acquisition of Land in India and Pakistan*.

However, it should be noted that under section 24 clause 6 of the Indian Land Acquisition Act 1894 it is laid down that the court shall *not* take into consideration any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put. Paragraph 2(b) of the First Schedule of the Land Acquisition Act 1960 however says that in determining the amount of compensation to be awarded for any acquired land under this Act there shall be taken into consideration *inter alia* any increase in the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put. It is clear therefore that this positive provision of our law entitles us to do what Mr. Gopalakrishnan had done i.e. deduct any betterment value from the total sum of compensation which would otherwise be allowed.

H I am inclined to agree with Mr. Gopalakrishnan that the proposed By-Pass Road would result in an increase in the value of the remaining property. I would also accept his estimate that the portion closest to the road i.e. within 300 feet of the road, would be enhanced in value, and that the total area so affected will be 23 *relongs*. However, bearing in mind that we are considering market value on the 30th June, 1966 when the date of the construction of the By-Pass Road was a matter of conjecture, perhaps the increase in value of \$2,000 per *relong* would be too optimistic. I am of the view that it would be fairer to compute such increase at \$1,000 per *relong*, since construction of the By-Pass Road has not been started up to this day.

Lot No.	Location	Land Area	Consideration	Date	Price per Relong (Approx.)	Remarks
(1) 1622	Mukim of Pengkalan Kundor.	11r. 233j. 40k. (11.482r.)	\$ 34,450 (whole)	4.11.1954	\$ 3,000	<i>Bendang</i> land inside Town Council Boundary. No conversion and sub-division. No frontage to a road (Jalan Pegawai was not constructed then). Non-Malay ownership in Malay Reservation. <i>Note:</i> Price paid was in 1954 and reflected more than agricultural value. Immediately adjoining the acquired property (Lot No. 911).
(2) 991	Mukim of Kota Star.	20r. 322j. 00k. (20.665r.)	\$175,000 (whole)	17.8.1963	\$ 8,465	Value for Estate Duty on 17.8.1963. Original valuation was \$220,000 i.e. \$10,646 per <i>relong</i> but reduced by negotiation to \$175,000. Valuation based on building potentiality. <i>Bendang</i> land inside Town Council Boundary. At the material date, there was no conversion or sub-division. Narrow frontage to Jalan Kota Tanah. Malay ownership in Malay Reservation. <i>Note:</i> Immediately adjoining the acquired property (Lot No. 911). Subsequently converted and sub-divided for housing development.
(3) 1956	Mukim of Kota Star.	4r. 425j. 00k. (4.878r.)	\$ 13,000 (1/10 undivided share)	6.9.1964	\$27,080	Land inside Town Council Boundary. No conversion or sub-division. Encumbered with timber houses. Malay ownership in Malay Reservation. <i>Note:</i> Price paid was high as compared with valuation of adjoining Lot No. 991.
(4) 1767 to 1773 (consecutively)	Mukim of Kota Star.	40r. 247j. 00k. (40.510r.)	\$188,373 (whole)	29.6.1965	\$ 4,650	<i>Bendang</i> land outside Town Council Boundary. No conversion or sub-division. Non-Malay ownership in Malay Reservation. <i>Note:</i> Price paid reflected more than agricultural value for padi land.
(5) 1957	Mukim of Kota Star.	4r. 302j. 00k. (4.624r.)	Love and Affection for 1/9 undivided share.	26.8.1965	\$ 4,890	* Valued for stamp duty at \$4,890 per <i>relong</i> . Land inside Town Council Boundary. No conversion or sub-division. Encumbered with timber houses. Malay ownership in Malay Reservation. <i>Note:</i> Land is comparable with transaction of adjoining Lot No. 1956 in 1964.
(6) 830	Mukim of Pengkalan Kundor.	13r. 033j. 00k. (13.068r.)	\$ 35,284 (whole)	18.1.1966	\$ 2,712	<i>Bendang</i> land outside Town Council Boundary. No conversion or sub-division. No access reserve. Non-Malay ownership in Malay Reservation. <i>Note:</i> Part of land was acquired in May, 1968 and awarded at \$8,500 per acre approx., or \$6,044 per <i>relong</i> . Relative to the acquired properties (Lots. Nos. 911, 1767 and 1768) this property is further away from the town centre.
(7) 2528 to 2541 (consecutively)	Mukim of Pengkalan Kundor.	4r. 394j. 30k. (4.812r.)	\$126,777.50 (whole)	26.2.1967	\$26,346	Land inside Town Council Boundary. Frontage to narrow road reserve. Access from Jalan Pegawai. Sub-divided into 14 building lots. Adjoining terrace housing development. Non-Malay ownership in Malay Reservation. <i>Note:</i> The properties were valued by the Pemungut Hasil Tanah for stamp duty in connection with this transaction at \$149,150 i.e. \$30,995 per <i>relong</i> . These properties are just as far away from the Town Centre as acquired properties.
(8) 1800	Mukim of Kota Star.	14r. 409j. 00k. (14.845r.)	\$154,000 (whole)	19.4.1967	\$10,300	<i>Bendang</i> land inside Town Council Boundary. Frontage to Jalan Pegawai. No conversion or sub-division. Malay ownership in Malay Reservation. <i>Note:</i> Immediately adjoining the acquired property — (Lot 911).
(9) 1628	Mukim of Kota Star.	4r. 072j. 00k.	\$ 35,000 (whole)	15.10.1966	\$ 8,400	
(10) 889	Mukim of Pengkalan Kundor.	2r. 299j. 7 kp.	\$ 4,260	3.4.1968	\$ 2,570	
(11) 887	Mukim of Pengkalan Kundor.	2r. 278j. 2 kp.	\$ 5,000	9.7.1968	\$ 2,360	

I agree with Mr. Gopalakrishnan that land west of the proposed road (area "B" in Appendix "A" of his report Exhibit D 20) 8.54 *relongs* in area is worth \$4,000 per *relong* for the same reasons given by him.

I am also of the view that taking into account the various transactions I have referred to and in particular the recorded sale of Lot 1628 at \$8,400 per *relong* and Lots 1767 to 1773 at \$4,650 per *relong* on 29th June, 1965 and taking into account other factors such as the difference in size of the area acquired as compared to these Lots, the fair market price of the land before the construction of the road would be \$7,000 per *relong*.

Though their opinion of value is not precisely the same as mine, I have also taken into account the carefully considered opinions of the Assessors on whose experience in land values I have drawn upon heavily in arriving at the figures I have arrived at herein, which are as follows:—

Award:

Market value of land acquired i.e. value of land before construction	—	
\$7,000 per <i>relong</i> X 9.5459 <i>relongs</i>	=	\$66,822
Estimated increase in value of land after acquisition at \$1,000 per <i>relong</i> for a total area of 23 <i>relongs</i>	—	
\$1,000 per <i>relong</i> X 23 <i>relongs</i>	=	\$23,000
Amount to be deducted under section 2(b) of First Schedule to Land Acquisition Act, 1960	\$23,000	\$43,822+
Amount to be awarded under section 2(c) of First Schedule i.e. for severance loss at \$7,000 — \$4,000 = \$3,000 per <i>relong</i> for portion "B" in Appendix "A" of Exhibit D 20, in area 8.54 <i>relongs</i>	—	
\$3,000 X 8.54 <i>relongs</i>	=	\$25,620
	Award	\$69,442
Nett amount of award is	\$69,422 for	
9.5459 <i>relongs</i> , or	\$7,272.44 cents per <i>relong</i> .	

Costs:

Since at the inquiry before the Collector of Land Revenue applicants asked for compensation at \$16,500 per *relong*, therefore exceeding by more than 20% the amount of this award, they will not be entitled for their costs — (section 51(1)(d)). Each party will therefore pay its own costs.

Also because of the excessive claim so made by them, I order applicants to pay what is deemed to be the cost, i.e. the fee of the assessors. I direct that such fee should amount to \$100 a day for each assessor for a total period of 7 days in the case of Dato' Wan Ibrahim bin Wan Soloh, 6 days in the case of Dato' Syed Idrus Al-Idrus, and 1 day in the case of Dato' Wan Abdullah bin Haji Wan Ismail, the latter having ceased to act as assessor after the first day owing to illness, and his place taken by Dato' Syed Idrus Al-Idrus.

Dato' Wan Ibrahim bin Wan Soloh, Assessor (delivering his assessment): The case of the above Land Reference was heard in the High Court, Alor Star on the 19th of August, 1968 and on the 17th, 18th, 22nd and 27th January, 1970.

The case was in respect of a land, Lot No. 911 in the Mukim of Pengkalan Kundor, District of Kota Star. The

area of this lot was 105 *relong* 141 *jemba* (74 acres 3r. 20p.). Out of this area, 9 *relong* 264j. 11k. (6 acres 3r. 6p.) was acquired in June, 1966, by Government for the purpose of a bye-pass road from North to South.

For the acquired area the Collector of Land Revenue, Kedah, offered applicants the sum of \$28,684.50 as full compensation. (This amount was equivalent to \$3,000 per *relong*). The applicants did not accept the offer on the following grounds:—

- (1) The Collector of Land Revenue failed to take into consideration the potential value of the land as suitable for housing development.
- (2) The Collector of Land Revenue failed to take into consideration the prevailing prices of lands in the area especially the adjoining lands which have already developed as a housing estate.
- (3) The award made by the collector is not in accordance with the market value of the land.

The applicants asked that they be paid for the acquired area at \$16,500 per *relong*.

The Collector of Land Revenue, Kedah, in awarding the compensation, after having consulted the Collector of Land Revenue, Kota Star, who valued the land at \$2,700 per *relong*, a figure arrived at by considering the market value of other transactions at that time (June, 1966). However, the Collector of Land Revenue, Kedah, in charge of Land Acquisition work, awarded applicants \$3,000 per *relong*. In awarding this amount he used the valuation of the Collector of Land Revenue, Kota Star, as a guide-line. Lot 911 was under 'bendang' express condition. The land was in Malay Reservation; it was owned by a non-Malay and so should be paid at a bit higher price.

On appeal by the applicants, the Legal Adviser, Kedah/Perlis, sought the opinion of the Regional Valuation Officer, Northern Region, Penang (Treasury Valuation Division). The opinion of this officer was that the fair and reasonable net compensation which should be paid on the material date, i.e. 5th May, 1966, for the area of land acquired, was \$28,275, i.e. approximately \$2,950 per *relong* in accordance with the relevant provisions of the Land Acquisition Act, 1960.

A witness for the applicants (Haji Laidin bin Haji Abdul Manan, formerly the Director of Lands, Kedah, and now a licensed appraiser, Kedah) was of the opinion that the acquired area could not be valued at less than \$10,000 per *relong*, in view of the fact that an adjacent lot, i.e. Lot No. 991 was valued at \$175,000, an area of 22 *relong*, i.e. \$8,750 per *relong*, for the purpose of estate duty.

Another witness for the applicants was a licensed appraiser (first class, Kedah), Mr. Kong Chua Soon, who submitted a report and valuation of Lots 911 and also on lots 1767 and 1768 in the Mukim of Kota Star abutting Lot 911. He was of the opinion that the net value of the land acquired should be \$125,365 inclusive of lots 1767 and 1768.

After studying the reports of the private licensed appraiser and the Regional Valuation Officer (Treasury Division) and other evidence adduced at the hearing, I am of the opinion that the acquired land should be valued at \$6,000 per *relong* as against \$3,000 per *relong* as valued by the Collector of Land Revenue, Kedah.

My reasons for valuing so are:—

1. The land is in a Malay Reservation — presently owned by a non-Malay and as such the present owner is free to sell to anybody, and normally such land fetches a better value than a land in Malay Reservation and owned by a Malay.
2. The land is situated approximately one mile from the centre of Alor Star town on the north-east and lies immediately outside the Town Council boundary. As Alor Star is expanding, it is very likely that expansion may be towards the West of Alor Star town. If that would be the case, as I see it, Lot 911 would be in demand. Lots to the north of Lot 911 are being ex-

tensively developed. And this development has benefited Lot 911 though it has no direct access except through (at present) private road on Lot 991. Even without the proposed By-Pass Road, Lot 911 has a potential value. Lot 991 was developed before June, 1966 and valued for estate duty purposes at \$8,750 per *relong*.

I have also taken into consideration that the whole area of Lot 911 will be benefited and its price will shoot up when the by-pass road is completed even if it remained as a 'bendang' land.

Dato' Syed Idrus Al-Idrus, Assessor (giving his views and recommendations): The task before me is to give my views as to what should be the appropriate market value of Lot 911 on 30th June, 1966 on which a portion of the land was acquired by the Government for the purpose of constructing a by-pass road to connect the main highway Alor Star/Kangsar to the Kuala Kedah Road. Having done so I am also required to give my opinion as to what would be the fair amount of compensation to be awarded to the owner after taking into account the severance loss and betterment gains resulting from such acquisition.

In making my recommendation my attention is drawn to the principles relating to the determination of compensation laid down in the First Schedule, Land Acquisition Act, a copy of which is supplied to me for reference.

The Collector of Land Revenue has made an award in this case at the rate of \$3,000 per *relong* while the complainants have asked for \$16,500 per *relong* for compensation.

Lot 911 is *bendang* condition in the Malay Reservation in the proximity of Alor Star Town but outside the Town Council Limit. It has an area of 103 *relong* 141 *jembu* and is owned by a non-Malay. The land is leased to Malays for planting padi at the rate of 6 *naleh* per *relong*. It has a fairly regular shape and is about 2' or 3' below road level.

The Collector of Land Revenue based his valuation on the price paid for Lot 830 which was transacted slightly earlier at \$2,712 per *relong* but allowed a slight increase after considering the potentialities of Lot 911. He took Lot 830 for comparison because both are owned by non-Malays in the Malay Reservation and are outside the Town Council Limit and also because of their distance from the main road.

I notice Lot 911 has better advantages than Lot 830, in that Lot 911 adjoins Lot 991 at its eastern boundary. As Lot 991 has been approved for housing development and part of the sub-divided lots have been built up there exists a road reserve of some form to provide access to Lot 911. Besides this a stretch of land composed of Lot 1767-1773 to the north of Lot 911 belongs to applicant and these lots are very near to the Government Low Cost Housing Scheme and another developed area. As such there should not be much problem if the owner would wish to develop Lot 911 in conjunction with other lots to the north. There are other building developments not very far from the south eastern boundary of Lot 911.

In considering the fair market value of Lot 911 I take into consideration the valuation of the following experts:—

(a) Tuan Haji Laidin, an experienced landman called as a witness by the applicants — (AW 2).

This witness considers that the value of Lot 911 could not be less than \$10,000 per *relong*. His valuation is based on Lot 991 valued by the Treasury Valuer as at August, 1963, (*viz.* \$175,000 for an area of 20r. 322j. or \$8,465 per *relong*).

(b) Mr. Kong Chua Soon (AW 4).

In his first Exhibit P17 he gives as \$8,000 per *relong* but in his report which was produced earlier as Exhibit P6 he estimates the value as \$8,500 per *relong*. Inclusive of compensation for loss his total value for the area acquired is \$109,053.50 (or approximately \$11,000 per *relong*).

(c) Mr. Gopala Krishnan, DW 4, estimates \$8,000 as the fair market value.

Besides the above a list of known transactions and recorded sales of lands in the vicinity are also produced as

A exhibits in court. From these exhibits I notice Lot 1767-1773 was sold on 29th June, 1965 at \$4,650 per *relong*. The valuation was made by the Stamp Office, Penang. Although the transaction was not a sale in the real sense, in my opinion it can be taken as the fair market value at the time. I feel I should take also into consideration first the value assessed by the Treasury Valuer on Lot 991 at \$8,465 per *relong* as its proper value in August 1963, secondly the price paid for Lot 1800 on 22nd April, 1967 at \$10,400 per *relong*.

B Lot 991 has a better advantage than Lot 911 because the former is inside the Town Council Limit and has road frontage. But due to the fact that it was a Malay Reserve and owned by a Malay owner its value might be comparable to Lot 911 in 1963. As it is smaller in area than Lot 911 the value might slightly be more. Lot 1800 being only about 6 *relongs* smaller than Lot 991 having all the similarities as Lot 991, namely in the Malay Reservation and owned by Malay, inside the Town Council Limit with road frontage, fetched the value of \$10,400 per *relong*, an increase of about \$2,000 from that of Lot 991 in 1963. In my considered opinion, therefore, the value of Lot 911 on the date of publication of *Gazette* Notification No. 181 (30th June, 1966) would not be less than \$4,650 per *relong* (the value of Lots 1767-1773) or more than \$8,465 (the value of Lot 991). I am therefore of the opinion that the fair market value of Lot 911 may safely be fixed at \$7,500 per *relong*.

D Having determined the fair market value I have now to consider the severance loss and the betterment gains if any arising from the acquisition. The By-Pass road reserve cuts across Lot 911 almost diagonally dividing it into two portions. The western portion, triangular in shape is smaller than the other which is quite regular. The existence of the Transmission Line Reserve in Lot 911 now comes alongside the By-Pass Road in the triangular portion rendering this area fairly unsuitable for purposes other than agricultural land. However the By-Pass Road in my opinion would enhance the value of the eastern portion quite appreciably. I feel Mr. Kong Chua Soon's (AW 4's) report stresses more on the damage done by the By-Pass Road than the advantages which it would give to Lot 911. In this connection I am of the opinion the report prepared by DW 4 is fair and more comprehensive for the purpose of considering a fair compensation award. For this matter I append below my considered opinion as to the fair award in this case:

F Market value of Lot 911 before construction of By-Pass Road ... \$ 7,500 per *relong*
Estimated value of affected area, 8.54 *relongs*, to the west of the By-Pass Road, after construction ... \$ 5,500 per *relong*
Total amount of Loss = 8.54 X \$2,000 ... \$17,080
G Estimated value of 23 *relongs* (according to DW 4's report) which would be benefited after the construction of the By-Pass Road ... \$ 8,500 per *relong*
∴ Total amount of increase in value = 23 X \$1,000 ... \$23,000
H The area acquired is 9.5459 *relongs*
∴ The fair amount of compensation which would be awarded = \$7,500 X 9.5459 + \$17,080 — \$23,000 = \$65,674.25 or approximately ... \$ 6,871 per *relong*
Order accordingly.

I Solicitors: Jayadeva, Zahir & Ismi.